

**CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, FEBRUARY 8, 2005**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, February 8, 2005, commencing at 7:02 a.m.

A. ROLL CALL

Present: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – Hansen

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

NOTE: Council Member Hansen was absent due to his attendance at the American Public Power Association Legislative Rally, in Washington D.C.

B. TOPIC(S)

B-1 "Discussion regarding Charter City form of government"

Deputy City Manager Keeter recalled that this issue had been considered by Council in the early 1990s. There were a number of contractors who had expressed concern regarding the issue of prevailing wages, and the matter was not pursued.

City Attorney Schwabauer explained that a charter would have to be adopted through the municipal election process. He stated that the basic difference between a charter and general law city was that a general law city has a constitution that is ready made for it in the Government Code. He pointed out that there would be a significant investment involved in creating a charter. In addition, he noted that some of the benefits of a charter are illusory. As an example, it is true that charter cities do not have to pay prevailing wages; however, if they accept state or federal money for a project (which is nearly always the case) then they must pay prevailing wages. Charter cities cannot deviate from statewide concerns, e.g. traffic issues, telephone franchises, etc. Charters can change the election process and form of government of a city.

In response to Council Member Johnson, City Manager King commented that many charter cities were incorporated close to the time of California's statehood when there was a distinct difference between charter and general law cities. He pointed out that any change to a charter requires a vote of the public.

Council Member Mounce noted that public financing of election campaigns are legal in charter cities and asked how it differed from general law city regulations.

City Manager King replied that its purpose in charter cities was a way of controlling costs.

City Attorney Schwabauer explained that part of the impetus for Council's recent decision to charge candidates for the cost of their election statements in the voters' pamphlet was due to the Government Code's prohibition against financing elections; however, there is an Attorney General's opinion that states it does not apply to paying for candidates filing fees.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 7:17 a.m.

ATTEST:
Susan J. Blackston, City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Discussion Regarding Charter City Form of Government

MEETING DATE: February 8, 2005

PREPARED BY: Janice D. Magdich, Deputy City Attorney

The City Attorney's office has been asked by the Mayor to look into the pros and cons of Lodi becoming a charter city. As you are aware, California cities are either governed by the general law or a charter. Both kinds of cities have broad powers and freedom in the form of government which may be established and the types of activities in which they may engage. Of the 478 cities in the state, 108 are chartered (as of 12/31/04). Lodi is a general law city.

Not knowing the interest of the Council, the City Attorney's office has not prepared an in-depth analysis of the issues and procedures that would be necessary for the Council to consider in making a decision on whether or not the City should become a charter city. However, to facilitate discussion at today's shirtsleeve session, we have attached to this communication copies of information prepared by the League of Cities outlining the differences between the two forms of government.



JANICE D. MAGDICH
Deputy City Attorney

APPROVED: 

Blair King, City Manager

Types of Cities

In California, there are two kinds of cities: **charter cities** and **general law cities**. Of the 477 cities in the state, 105 are chartered. Unlike cities in many other states, both kinds of California cities have broad powers and enjoy considerable freedom in the form of government, which may be established, and the types of activities in which they may engage.

What is a charter city?

The authority provided in the state constitution to organize as a charter city is extended only to an existing city. Although general law cities now have nearly equal powers, charters are adopted by cities where special conditions create needs that cannot be adequately met by the general laws. An advantage of the charter form of government stems from the potential breadth of local authority, which may be exercised. Since the powers of a charter city are not restricted to only those outlined in the general state municipal law, a city can adopt a charter and custom-tailor its organization and elective offices to provide for unique local conditions and needs. A charter can only be adopted and /or changed by a majority vote of city residents -- not by a vote of the city council. Citizens can establish the terms and number of council members and impose other limitations upon their city council through a charter provision.

What is a general law city?

A general law city operates within the parameters and guidelines of California municipal law. The advantage of a general law city is that general state laws have been subjected to judicial scrutiny and tested over the years, so there is relatively little confusion about their application. City charters, by contrast, can be much more complicated and can raise many more questions about what can and cannot be done under state law.

Exception to the rule.

There is one consolidated government unit in California. San Francisco is actually both a county and a city government. Because the city comprises the entire county, voters decided to combine the two governments into one. To date, it is the only example of city and county consolidation in California, although attempts to consolidate have been made in other areas, such as Sacramento County. There, voters, as recently as 1990, turned down a proposal to combine the city and county governments.



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Characteristics of General Law Cities & Charter Cities

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CHARACTERISTICS OF GENERAL LAW CITIES & CHARTER CITIES*

Characteristic	General Law City	Charter City
Form of Government	State law describes the procedures for a city council to establish its form of government. See Cal. Gov't Code § 36501 . Absent formal action by a city council, the council retains authority over the management of a city. However, "alternate" forms of government are specifically authorized by state law and one of those is the "city manager" form of government. Cal. Gov't Code § 34851 . General law cities may also, by vote of the people, exercise the option to be governed by a council of from four to nine council members "by" or "from" districts. Cal. Gov't Code § 34871 .	Can provide for any form of government, including mayor/city manager form of government.
City Council Qualifications	<ul style="list-style-type: none"> Registered voter 18 years old Resident of city for 29 days <p>See Cal. Gov't Code § 36502.</p>	Can establish unique criteria for city office. Established criteria must not be discriminatory and residency requirements must not violate the privileges and immunities clause of the Constitution.

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CONTACTS FOR THIS STORY

League of California Cities
1400 K Street
Sacramento, CA 958
Main Telephone:
916.658.8200

RELATED RESOURCES

There are no resources for the stories in this section.

Vacancies and Termination of Office	<p>Death, resignation, removal for failure to perform official duties, electorate irregularities, absence from meetings without permission, vacancy upon non-retirement.</p> <p>See Cal. Gov't Code § § 1770, 36502 and 36514.</p>	May establish criteria for vacating and terminating city offices.
Council Member Compensation	<ul style="list-style-type: none"> ■ Salary ceiling set by city population. ■ Voters may approve a higher salary. ■ Reimbursement for actual and necessary expenses incurred in performance of duties. ■ Council Members to be provided the same benefits that are available and paid by city to its employees. <p>See Cal. Gov't Code § 36516(a).</p>	<p>May establish</p> <ul style="list-style-type: none"> ■ Salaries ■ Expense reimbursement ■ Benefits
Election of Mayor and City Council	<ul style="list-style-type: none"> ■ Mayor may be elected by the city council or by vote of the people. See Cal. Gov't Code § 36801 ■ City council members elected by voters. <p>See Cal. Gov't Code § 34903.</p>	Charter may establish process for selecting officers.
Term Limits	<p>May be imposed.</p> <p>See Cal. Gov't Code § 36502(b).</p>	May provide for term limits.
Legislative Authority	Ordinances may not be passed within five days of introduction, unless	May establish method for enactment of local ordinances

	<p>or introduction, unless they are urgency ordinances.</p> <p>See Cal. Gov't Code § 36934. Ordinances may only be passed at a regular meeting, and must be read in full at time of introduction and passage. See Cal. Gov't Code § 36934.</p> <p>All ordinances that are not urgent require three affirmative votes. See Cal. Gov't Code § 36936.</p>	Ordinances.
Resolutions	May establish rules regarding the procedure to following in adopting, amending or repealing resolutions.	May provide for adoption of resolution.
Quorum and Voting Requirements	A majority of the city council constitutes a quorum for transaction of business. See Cal. Gov't Code § 36810 .	May provide requirements for a quorum.
Rules Governing Procedure & Decorum	<p>Brown Act is applicable. See Cal. Gov't Code § 54950.</p> <p>Conflict of interest laws are applicable. See Cal. Gov't Code § 87300, <i>et seq.</i></p>	<p>Brown Act is applicable.</p> <p>Conflict of interest laws are applicable. May provide provisions related to ethics, conflicts, campaign financing and incompatibility of office.</p>
Personnel Matters	Civil service system. See Cal. Gov't Code § 45000 et seq. Meyers-Milias-Brown Act, See Cal. Gov't Code § 3500 applicable residence requirements for public employees.	<p>May establish standards, requirements, and procedures, including compensation, terms and conditions of employment for hiring personnel.</p> <p>Meyers-Milias-Brown Act applicable.</p>
Contracting Services	Authority to enter into contracts to carry out necessary functions, including those expressly granted and those implied by necessity. See Cal. Gov't Code § 37103 .	<p>Full authority to contract consistent with charter.</p> <p>May transfer some of its functions to the county. See Cal. Gov't Code § 51330.</p>

	Gov't Code § 97.102 .	May designated mode and method of contracting for services or public works.
Public Contracts	<p>Competitive bidding required for public works contracts over \$5,000. See Cal. Pub. Cont. Code § 20162.</p> <p>Such contracts must be awarded to the lowest responsible bidder. See Cal. Gov't Code § 53068.</p> <p>If city elects to be subject to uniform construction accounting procedures, less formal procedures may be available for contracts less than \$100,000. See Cal. Pub. Cont. Code § 22000 <i>et seq.</i> & Cal. Pub. Cont. Code § 22032.</p> <p>Contracts for professional services are not subject to competitive bidding. See Cal. Gov't Code § 4526.</p>	Not required to comply with competitive bidding statutes. May use own forces to negotiate contracts, or other means not authorized in Public Contracts Code.
Payment of Prevailing Wages	<p>Generally prevailing wages must be paid on public works projects over \$1,000.</p> <p>Exemptions to the above that do not require the payment of prevailing wages include:</p> <ul style="list-style-type: none"> ■ Public works projects of \$25,000 or less involving construction work; or ■ Public works projects of \$15,000 or less when work is demolition, repair, alteration or maintenance 	Not required to pay prevailing wage as long as project is in realm of municipal affairs, and not projects of state concerns, or funded by state or federal grants.

	or maintenance. See Cal. Labor Code § 1771 , <i>et seq.</i>	
Elections	Municipal elections conducted in accordance with the California Elections Code. See Cal. Elec. Code § 10101 <i>et seq.</i>	May establish election dates, rules and procedures. Not bound by state election laws or recall elections, but may adopt the general election law by reference. See Cal. Const. art. XI, § 5(b) .
Methods of Elections	Generally hold at-large elections whereby voters may vote for any candidate on the ballot. Cities may have district elections. See Cal. Gov't Code § 34871 .	May hold at-large or district elections.
Public Funds for Candidates in Municipal Elections	Prohibited from expending public funds to fund campaigns for public office. See Cal. Gov't Code § 5300 .	Public financing of election campaigns are legal. No prohibition against expending or accepting public monies to seek elective office.
Finance and Taxing Power	<p>May impose the same kinds of taxes and assessment as charter cities. See Cal. Gov't Code § 37100.5.</p> <p>Imposition of taxes and assessments subject to Proposition 218. See Cal. Gov't Code § 53734 Cal. Const. art. XIIIC, § 2(b).</p> <p>Examples of common forms used in assessment district financing include:</p> <ul style="list-style-type: none"> ■ Improvement Act of 1911 See Cal. Sts. & High. Code § § 22500 <i>et seq.</i> ■ Municipal Improvement Act of 1913; See Cal. Sts. & High. Code § § 10000 <i>et seq.</i> 	<p>Have the power to tax. See Cal. Const. art. XI, § 5.</p> <p>Have broader assessment powers than a general law city, as well as taxation power as determined on a case-by case basis.</p> <p>Imposition of taxes and assessments subject to Proposition 218.</p> <p>See Cal. Gov't Code § 53734 Cal. Const. art. XIIIC, § 2(b).</p> <p>May enact procedural ordinances for assessment district formation and financing.</p> <p>See <i>J.W. Jones Companies v. City of San Diego</i>, 157 Cal. App. 3d 745, 203 Cal. Rptr. 590 (1984).</p>

	<p><i>et seq.</i></p> <ul style="list-style-type: none"> ■ Improvement Bond Act of 1915 See Cal. Sts. & High. Code § § 8500 <i>et seq.</i> ■ Landscaping and Lighting Act of 1972 See Cal. Sts. & High. Code § § 22500 <i>et seq.</i> ■ Benefit Assessment Act of 1982; See Cal. Gov't Code § 54703 <i>et seq.</i> <p>May impose business license taxes for regulatory purposes, revenue purposes, or both. See Cal. Gov't Code § 37101.</p> <p>May not impose real property transfer tax. See Cal. Const. art. XIII A, § 4; Cal. Gov't Code § 53725. <i>But</i> see authority to impose documentary transfer taxes under certain circumstances. Cal. Rev. & Tax. Code § 11911(a), (C).</p>	<p>Rptr. 300 (1984).</p> <p><i>May impose business license taxes for any purpose unless limited by state and federal constitutions, or charter. See Cal. Const. art. XI, § 5.</i></p> <p>May impose real property transfer tax. Does not violate Cal. Const art. XIII A or Cal. Gov't Code § 53725. <i>See Cohn v. City of Oakland</i>, 223 Cal. App. 3d 261, 272 Cal. Rptr. 714 (1990); <i>Fielder v. City of Los Angeles</i>, 14 Cal. App. 4th 137, 17 Cal. Rptr. 2d 630 (1993).</p>
Streets & Sidewalks	State has preempted entire field of traffic control. See Cal. Veh. Code § 21 .	State has preempted entire field of traffic control. See Cal. Veh. Code § 21 .
Penalties & Cost Recovery	May impose fines, penalties and forfeitures with a fine not exceeding \$1,000.	May enact ordinance providing for different penalties. May determine maximum limit for penalties.
Public Utilities/Franchises	May establish, purchase, and operate public works to furnish its inhabitants with electric power. See Cal. Gov't Code § 39732 Cal. Const. art. XI, § 9 (a) Franchise Act of 1937; Cal. Pub. Util. Code § § 620-6302 .	<p>Sale and distribution of electricity is a municipal affair.</p> <p>May own and operate utilities, water, sewer and energy.</p> <p>Franchise Act of 1937 is not applicable if charter provides.</p>

	may grant franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city through a bidding process. See Cal. Pub. Util. Code § § 6001-6092 (Broughton Act). Alternatively may grant franchises without a bidding process. See Cal. Pub. Util. Code § § 6201-6302 (Franchise Act of 1937).	See Stats. 1951, ch. 764, § 6205. May establish conditions and regulations on the granting of franchises to use city streets to persons or corporations seeking to furnish light, water, power, heat, transportation or communication services in the city.
Zoning	Zoning ordinances must be consistent with general plan. See Cal. Gov't Code § 65860 .	Zoning ordinances are not required to be consistent with general plan.

* Adapted from memorandum written by Elise K. Traynum; [Meyers Nave](#) 7/24/2000.

last updated : 6/8/2004

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Oroville

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